The Solicitors' Journal

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CONTENTS

CURRENT TOPICS

Sir W. Francis Kyffin Taylor, K.C.

To Sir Francis Kyffin Taylor, K.C., we renew our hearty good wishes on his recently announced retirement from the judgeship of the Liverpool Court of Passage after forty-five years' service in the office. We recently wished him well on his retirement from the chairmanship of Shropshire Quarter Sessions. Sir Francis is now ninety-three years of age. He was called to the Bar in 1879 and became Queen's Counsel in 1895. He is senior living silk both in age and by reason of the date of his appointment. May he enjoy many long years of activity and happiness in his retirement.

His Honour Judge Topham, K.C.

Real regret will be felt by solicitors and counsel practising on Circuit 51 of the county court districts (Hampshire) at the resignation of His Honour Judge Alfred Frank Topham, K.C., who has been judge of that circuit since 1939. Most of the advocates who practised before him had familiarised themselves with the elements of real property law and of company law through his attractive text-books on those subjects, in preference to the drier and more diffuse tomes that unsympathetic tutors sometimes prescribed. It is not uncommon to find that the expert conveyancing and company lawyer, through his training in attention to detail, shows more accomplishment when he turns to court work than his common law colleague. Judge Topham undoubtedly has a flair for hearing both sides fully and expeditiously and deciding aright. His unfailing good humour and patience, as well as his abstinence from interfering with the conduct of a case, won the respect and affection of advocates. All will wish him health and happiness in his retirement. Consequent on his retirement, Judge Tylor, K.C., is to be judge of Circuit 51 and Judge Alun Pugh judge of Circuit 40 (Bow).

The Deputy Speaker

When the Deputy Speaker of the House of Commons, Major Milner, stated in the House on 22nd March that he had acted professionally as a solicitor in writing to a member of Parliament on behalf of a Minister, it was decided to appoint a Select Committee to inquire into the matter. The Select Committee was appointed, and on 3rd April issued its report as a White Paper. Major Milner's friends, whatever their political allegiance, will rejoice to hear that the only criticism that the committee made of his conduct was one which he himself had already publicly made: "that the chair should not only be impartial, but should also give the appearance of impartiality." The report found that Major Milner acted in a professional capacity, but only after his firm had, without his knowledge, become involved in a dispute between two members. Major Milner was thus completely acquitted of partiality, but the committee had this to add on the general aspect of the matter: "At least one other Deputy Speaker has in recent years continued his work in the legal profession whilst holding his office in the House. Your committee is of the opinion that it is a matter for the House to consider whether or not rules should be laid down governing the conduct of the Deputy Speaker in his professional or business relationships with any member of the House."

Yorkshire Law Society

The 162nd annual meeting of the Yorkshire Law Society took place on 23rd March. The committee's report, which was presented to the meeting, recorded that an ex-president, Mr. G. Laycock Brown, of York, had been a member since 1886, and the treasurer, Mr. F. Perkins, had held his office for thirty-seven years and had been county court registrar for fifty years and a solicitor for sixty years. The report also states that the Disciplinary Committee recently dealt with a case under r. 2 of the Solicitors' Practice Rules (*Law Society's Gazette*, October, 1947) and reminds members that the minimum scale for their area is the 1881 scale plus 33⅓ per cent. with no reduction when acting for both parties. The Poor Persons' Committee held nine meetings during the year, and considered eighty-three cases, as against eighty-seven last year. About 95 per cent. of the applications were for divorce and a substantial minority of applications by husbands had to be refused because of their means. Where the applicants' means were slightly in excess of the limits, and the applicant was not in a position to find the full costs of a divorce, the committee offered to find a solicitor to take the case as a paid one, but at a reduced fee.

The Rent Tribunals: Security of Tenure

The problem of accommodation for the homeless is mainly due to the slowness of national recovery and the difficulties attending the housing programme. One can understand and sympathise with the attitude of the chairman of the East London Rent Tribunal, Mr. Michael Marcus, who said on the 28th March, 1948, that a simple solution could be found for a not unimportant part of the problem by giving rent tribunals an unfettered discretion to give tenants of furnished premises any security of tenure, without limit, that seems to fit the case. It was considered right, on the passing of the Furnished Houses (Rent Control) Act, 1946, to limit the period of security of tenure to be given by tribunals to three months. It is easy and lawful, therefore, Mr. Marcus said, for a vindictive landlady to evict a tenant after three months without just cause, so that tenants prefer to pay exorbitant

charges rather than risk eventual eviction. The chairman of the Leicester Rent Tribunal is reported to have agreed last October with this statement and went so far as to say that the lessors invariably turn the tenants out at the end of the three months as a reprisal for having brought them before the tribunal. Whether an increase in the powers of tribunals or some other solution is needed is a matter for inquiry and action. It is wrong for the Government to be satisfied with waiting through the years that must elapse before the whole rent system is overhauled, rather than to spend the small amount of Parliamentary time necessary to remedy much misery now.

Marriage Guidance

ONCE again a warning has been issued, this time by the Chairman, Mr. CLAUD MULLINS, and the Hon. Treasurer, Sir HAROLD BELLMAN, of the London Marriage Guidance Council, that the recommendation of the Denning Committee that financial assistance be given to marriage guidance has not been sufficiently implemented. The amount so far given from public funds to the National Marriage Guidance Councils, according to their letter to *The Times* of 1st April, has been £1,200, and this amount is solely for administration. The Attorney-General recently stated, they wrote, that in the year ending on 31st March, 1947, the expenditure from public funds for Poor Persons' matrimonial cases amounted to £209,670. It is an understatement to say, as the letter does, that these two figures are out of proportion, but it is no overstatement to say, as the letter does in so many words, that the work of the councils is in danger of collapse. Is this humanitarian work to be another victim of the modern tendency to destroy what is good and encourage what is bad ?

Wig and Gown

MR. ROBERT LYND, in an essay in the *News Chronicle* of 27th March, put forward some new ideas on the subject of the wig and gown controversy started by the recent attack in Parliament on the uniform as "medieval." "Wearing uniforms," he wrote, "like eating and sleeping, is a custom indeed even older than the Middle Ages . . . It is one of those practices, like cookery, shared by the savage and the civilised man." Mr. Lynd confessed that "even for the look of the thing," he was in favour of uniforms, and he asked whether the enemies of uniforms would do away with the uniform of the police. "This may not be so beautiful as the uniform of the peers," he wrote, "but it is even more impressive." Criticising a member's criticism of the wig and gown that it was designed to create a feeling of fear and terror, Mr. Lynd asked whether the member really believed that a wig was more intimidating than a salute with a clenched fist. Mr. Lynd thought that "to create a wholesome feeling of fear and terror in the right people—or rather in the wrong people—is a highly desirable thing." Common sense is a rare thing, and when distilled with the charm of great writing, it is still rarer. It is not only lawyers who should feel grateful to Mr. Lynd for the shrewd thrusts which he has dealt to the unthinking iconoclasts of to-day.

Control of Monopolies

WE have become so used to price controls to enforce maximum prices that we tend to forget that the public used to complain that combines and associations of manufacturers used to wield their legal powers to enforce minimum prices. Arrangements to uphold a minimum level of prices were held to be legal and not in undue restraint of trade in *Palmolive Co.* v. *Freedman* [1928] Ch. 264, and manufacturers have been held to be acting in the protection of their legitimate trade interests and not exacting money by unlawful threats in exacting fines for the breach of such arrangements (see *Hardie and Lane* v. *Chilton* [1928] 2 K.B. 306, and *Thorne* v. *Motor Trade Association* [1937] A.C. 797). The introduction of a Bill in the House of Commons on the 25th March "to make provision for inquiry into the existence and effects of, and for dealing with mischiefs resulting from, or arising in connection with, any conditions of monopoly or restriction or other analogous conditions prevailing as respects the supply of, or the application of any process to, goods, buildings or structures or as respects exports" threatens to alter the trend of the common law by the setting up of a Monopoly Commission, presumably on the lines of the Federal Trade Commission in the United States. No doubt the Commission will find plenty of work to do in spite of the many fields in which strict price controls are still enforced.

The Easter Sittings

THE slow but steady increase in the amount of business in the High Court continues, if the lists issued at the beginning of each term are any guide. Last year at this time we noted that the total of 369 actions in the King's Bench Division for the Easter Sittings was an increase of 22 over the previous year. This year the number of actions for trial is 408. Similarly, in the Chancery Division, where there were increases last year, there are increases this year also: 67 non-witness actions, against 39 last year, 65 witness actions as against 55 last year, and 36 retained and other matters (39 last year). ROXBURGH, J., will take the 64 companies matters. In the Divisional Court the appeals, which more than doubled last year, have increased only by 22 to 240. In the list proper there are 38 appeals and 24 in the Revenue List and 4 in the Special Paper. The pensions appeals number 167 (115 last year). There are 3 appeals under the Town and Country Planning Acts, 1932 to 1944, and 1 under the Requisitioned Land and War Works Act, 1945. There are 299 final appeals to the Court of Appeal, as against 223 last year and 108 the year before; 102 are from the King's Bench Division (91 last year) and 29 from the Chancery Division (6 last year); 60 are on Probate and Divorce (29 last year), and there are 2 Admiralty appeals. There are 105 appeals from county courts (88 last year and 23 the year before). These include 9 workmen's compensation cases (13 last year).

The Companies (Articles of Association) Regulations, 1948

IT is perhaps not surprising that already an amendment has been found necessary in the Companies (Articles of Association and Annual Return) Regulations, 1948, referred to *ante*, pp. 145 and 175. These regulations made a number of alterations to Tables A, C and E of the Companies Act, 1929, and the alterations so made were embodied in the corresponding Tables in the consolidating Bill now before Parliament, with the intention that on their coming into force on 1st July next they should be immediately superseded by the Consolidation Act. The regulations, however, failed to take account of s. 81 (1) of the Companies Act, 1947, under which the articles of an unlimited company or a company limited by guarantee must state the number of members with which it proposes to be registered, notwithstanding that it has a share capital—a provision which necessitates appropriate articles in Tables D and E showing the number of members. The amending regulations (S.I. 1948 No. 586) accordingly revoke and replace the Third Schedule to the principal Regulations (relating to Table E) and also substitute new articles of association for those contained in Table D as set out in the Act of 1929. These further modifications will presumably have to be incorporated in a revised version of the Companies Bill, 1948, which as a consolidating measure is not subject to the ordinary processes of Parliamentary discussion and amendment.

Registry of Deeds and Land Registry: Northern Ireland

THE Northern Ireland Government Office has announced an extension of the powers of the Northern Ireland Government which is of considerable interest to persons owning property in Northern Ireland and to their legal advisers. Two services which have hitherto been reserved to the Imperial Government—the Registry of Deeds and the Land Registry — are being transferred to the Government of Northern Ireland as from this week, the necessary Orders in Council having been made under the provisions of the Northern Ireland Act, 1947.

DAMAGES IN DETINUE

THE very marked fluctuations in values and prices which have been experienced in the last few years have given added importance to the time at which damages in conversion must be assessed. In most cases it appears that the proper measure of damages must be taken as the market value of the goods at the time of the wrongful act, i.e., when the conversion was committed, and this is supported by a number of authorities (see *Rhodes* v. *Moules* [1895] 1 Ch. 254; *The Arpad* [1934] P. 189; *Re Simms* [1934] 1 Ch. 1, and Clerk and Lindsell on Torts, 9th ed., p. 350). Without embarking upon the difficult question as to whether damages for breach of contract should take into account loss of profit and sub-contracts, I think neither the old case of *Francis* v. *Gaudet* (1871), L.R. 6 Q.B. 199, nor *The Edison* [1933] A.C. 449, can be said to be authorities against this proposition, and it seems that damages which are not the natural and direct result of the wrongful act should normally only be taken into account, if at all, as evidence of the market price of the article. "My conclusion is that whether the action is in tort or contract . . ., circumstances peculiar to the plaintiff such as a sub-contract by him not communicated to the defendant, must be excluded from consideration, although in a proper case such a sub-contract, like any other contract of sale at a relevant date, might be used as evidence of value" (*per* Lord Maugham in *The Arpad, supra*, at p. 236).

The action for detinue differs from most of the other remedies for conversion in an important respect. It assumes that the plaintiff has never at any stage abandoned his property in the goods, and any other view would clearly be inconsistent with the pursuit by a plaintiff of an action for detinue in which the return of the goods is claimed, or failing return damages for detention. For this reason it appears that in such an action the value of the goods to be paid by the defendant to the plaintiff in the event of the defendant failing to return the goods to the plaintiff must be assessed as at the date of the verdict or judgment in his favour and not at the date when the defendant refused to return the goods, and the same principle applies where the defendant has converted the goods by selling them or has refused to return them for some other reason (see *Rosenthal* v. *Alderton & Sons, Ltd.* [1946] 1 K.B. 374). "The significance of the date of the refusal of the plaintiff's demand is that the defendant's failure to return the goods after that date becomes, and continues to be, wrongful. Moreover, the plaintiff may recover damages in respect of the wrongful 'detention' after that date, e.g., where the plaintiff has suffered loss from a fall in value of the goods between the date of the defendant's refusal and the date of actual return (see *William* v. *Archer* (1847), 5 C.B. 318), and such damages must equally continue to run until the return of the goods or (in default of return) until payment of their value. There is a clear distinction between the value of the goods claimed in default of their return and damages for their detention, whether returned or not. The date of the refusal of the plaintiff's demand is the date from which the latter commences to run, but appears to be irrelevant to the former and cannot convert a claim for the return of the goods into a claim for payment of their value on that date" (*per* Evershed, J., giving the judgment of the Court of Appeal, in *Rosenthal* v. *Alderton & Sons, Ltd., supra*, at p. 378). *Rosenthal's* case was a straightforward claim in detinue, the facts being that the plaintiff had left a number of articles upon the defendant's premises for safe keeping with the full knowledge and concurrence of the defendant, and on his return from war service found that the articles were missing, some of them having been sold by the defendant. There seems to have been no evidence that the defendant made any attempt to get in touch with the plaintiff before disposing of his property. In the recent case of *Sachs* v. *Miklos* [1948] 1 All E.R. 67, the facts were similar, but attempts had been made by the defendants to inform the plaintiff that they intended to dispose of his property. In 1940 a bailor arranged with a bailee that the latter should gratuitously store his furniture in her house. In 1944 the bailee, wishing to terminate the bailment, wrote to the bailor at his supposed address, requesting him to remove the furniture. Receiving no reply, she wrote once more stating her intention, failing instructions, to sell the furniture, and again received no reply. Attempts were also made by telephone to get in touch with the bailor, but without result. In July, 1944, the furniture was sold by auction and realised £13. In an action for detinue and conversion, commenced in 1946, the bailor claimed the current value of the furniture, which was then assessed at £115. The learned county court judge held that in selling without the plaintiff's instructions the defendant was acting as an agent of necessity, and therefore had an implied authority to sell, but this decision was reversed by the Court of Appeal, where it was held that the bailee was not an agent of necessity and in selling the furniture was guilty of conversion. On the question of damages, the plaintiff, relying on *Rosenthal* v. *Alderton & Sons, Ltd., supra*, claimed that he was entitled to the current value of the furniture, £115, but the Court of Appeal sent the case back to the county court judge for him to find whether or not the letters were received by the plaintiff or came to his knowledge. If they had come to his knowledge the increase in value of the furniture at the date of judgment was not to be taken into account. "If the plaintiff knew or ought to have known in July, 1944, that, if he did not remove those goods, Mr. and Mrs. Miklos intended to sell them, then it seems to me their great rise in value is damage which flowed, not from the wrongful act of Mr. and Mrs. Miklos, but from his own act. If he did not know or ought to have known that his goods had been sold and did not find out that his goods had been sold until January, 1946, then, it seems to me, however unfortunate it may be for the defendants, that it is impossible to say that he is not entitled to recover the value of the goods at that time" (*per* Goddard, L.C.J., in *Sachs* v. *Miklos, supra*, at p. 69).

The lesson of these two cases would seem to be this. As a general rule the damages in a successful claim for detinue to be paid by the defendant in the event of his failure to return the plaintiff's goods must be calculated from the value of the goods at the date of judgment, and the fact that the goods have, owing to circumstances quite outside the control of the parties, increased in value since they have been in the possession of the defendant is not a proper reason for departing from this rule. But, if the plaintiff is partly at fault in having allowed the goods to remain in the possession of the defendant after having had notice that the defendant desires their removal and proposes to take steps to remove them if the plaintiff does not, then this rule can be disregarded, and the damages assessed on the value of the goods at the time when the plaintiff had notice to remove them. It will be observed that in the passage from Lord Goddard's judgment in *Sachs* v. *Miklos, supra*, which I have quoted, it is stated "if he did not know or *ought to have known*." There must be many cases, with all the movements of population occasioned by the war and since, of unclaimed goods being left in the possession of bailees, and it is submitted that a bailee who is intending to dispose of the bailor's property and who cannot find the whereabouts of the bailor, can probably protect himself from further increases in the value of the property after he has sold it by advertising his intention to sell if the property is unclaimed. In that case I think it could reasonably be argued that the bailor ought to have known that the property would have been sold. This is, of course, very often the practice of railway authorities and warehousemen before disposing of unclaimed property which has been left in their custody and which they are selling in order to defray storage charges.

H. W. S.

Taxation

TAXATION IN LEGAL PRACTICE—VII

INSOLVENCY

THE position of the Crown as a preferred creditor in respect of taxes is now regulated by statute in all cases of insolvency, whether the debtor is an individual who has been adjudicated bankrupt, a company which is in liquidation, or a deceased whose estate has proved insufficient to discharge his debts in full. In all these cases the Crown originally had a prerogative right to priority, but the relevant provisions of the Bankruptcy Act, 1914, expressly bind the Crown (s. 151), and the giving of the Royal Assent to the Administration of Estates Act, 1925, and the Companies Act, 1929, has had the effect of superseding the prerogative rights during the subsistence of those substituted by the Acts in question (see *Food Controller* v. *Cork* [1923] A.C. 647). Accordingly, where the statutory priority does not apply, the debt for tax ranks with the debts of ordinary creditors.

Section 33 (1) (*a*) of the Bankruptcy Act, 1914, corresponds to s. 264 (1) (*a*) of the Companies Act, 1929. Among the debts of the bankrupt or company which are to be paid *pari passu* among themselves but in priority to all other debts are " all assessed taxes, land tax, property or income tax, assessed on the bankrupt up to the fifth day of April next before the date [of the receiving order or winding-up order or the commencement of the winding up] and not exceeding in the whole one year's assessment." The bankruptcy provisions are imported into the process of administering the insolvent estate of a deceased person, whether in or out of court, by s. 34 and Sched. I, Administration of Estates Act, 1925, the date of death being the relevant date. The funeral and testamentary expenses naturally rank in priority even to debts of the preferred class, as do, in the case of the voluntary winding up of a company, all costs, charges and expenses properly incurred in the winding up, including the remuneration of the liquidator. After 1st July, 1948, the relevant date in the case of a compulsory winding up in which a provisional liquidator is appointed will be the date of the first such appointment (Companies Act, 1947, s. 91 (7)).

Two important points arising out of this legislation were decided in *Re Cockell; Att.-Gen.* v. *Jackson* [1932] A.C. 365 and [1932] W.N. 172. In that case the sole executrix and universal legatee under the will of a person who died in 1929 claimed to be entitled to retain out of the estate, which was insolvent, certain sums representing debts due to her. The conflict was between the executrix and the Revenue, who contended that arrears of income tax and sur-tax for the year 1920–21 ought to be discharged in priority to the claim of the executrix. The House of Lords held that the executrix' right of retainer, embodied in s. 34 (2) of the Administration of Estates Act, 1925, could not prevail over the Crown's preferential claim conferred by the same statute, though as regards the balance of the Crown's claim after deducting the preferential year's tax, this was of the same degree as the debt of the executrix, with the consequence that she could retain against that balance. Subsequently a further question came before Bennett, J., in the Chancery Division, namely, whether the Revenue was entitled to choose the tax for the year 1920–21 as the subject-matter of its priority, or whether it was restricted to the twelve months *next* before the 5th April mentioned in the statute. The learned judge followed a decision of Eve, J., in *Gowers* v. *Walker* [1930] 1 Ch. 262, which had upheld, on a special case, the Revenue's claim to tax assessed for the year 1922–23 in a receivership commencing in 1927. In effect, then, the Crown can claim the tax for *any* year of assessment (within the appropriate limitation period) completed before the date of death or receiving order, etc. Eve, J., had also held that so long as the tax was due in respect of a period before the 5th April next before the relevant date, it was immaterial that the assessment was not made until after that date.

The case of *Re Lang Propeller, Ltd.* [1927] 1 Ch. 120, threw into prominence the statutory requirement that the tax, in order to gain priority, must be assessed on the company, the bankrupt or the deceased, as the case may be. Now it is not every kind of income tax recoverable by the Revenue which admits of a formal assessment. This difficulty has been resolved by the Legislature in two ways :—

(1) In the case of tax deducted by a payer of interest, annuities or annual payments and payable to the Crown under General Rule 21, the Finance Act, 1927, s. 26, provides, by an amendment of that rule, for a direct assessment on the payer in such a case. Priority therefore now obtains for r. 21 tax.

(2) By the Employment Regulations of 1944, made for the purpose of regulating P.A.Y.E., an employer is to deduct certain sums by way of tax from emoluments paid by him and to pay them to the collector of taxes. There is still no machinery for assessment of this tax on the employer, so that were it not for a special provision the Crown would rank with the ordinary creditors in respect of these sums. There is such a special provision, but it is a little different from that relating to tax assessed on the employer, and extends to any part of such sums not paid to the collector and referable to the period of twelve months next before the relevant date (Regulation 31).

The old case of *Re Watchmakers Alliance* (1905), 5 Tax Cas. 117, shows that a liquidator who distributes the assets without allowing for a claim to tax of which he has notice (though the claim itself may be disputed) may be held liable, under what is now s. 276 of the Companies Act, 1929, to repay the money as on a misapplication of the company's funds. Moreover, the case being within one of the exceptions to s. 4 of the Debtors Act, 1869, attachment may be ordered on non-compliance.

It sometimes happens in a voluntary winding up for the purpose of reconstruction that the liquidator carries on the trade of the company at a profit. The tax on such a profit is not, of course, a provable debt in the winding up, but it has been held that, though not a personal liability of the liquidator, it forms part of the expenses of winding up, and has such priority as may be determined by the court exercising its discretion under ss. 213 and 252 of the Companies Act, 1929 (*Re Beni-Felkai Mining Co.* [1934] 1 Ch. 406).

By s. 78 of the last-mentioned Act, a receiver appointed by debenture-holders in respect of a floating charge is to discharge preferential debts out of assets coming to him in priority to any claim for principal or interest on the debentures. No such preference is exercisable in respect of a fixed charge (*Re Lewis Merthyr Collieries, Ltd.* [1929] 1 Ch. 498).

Finally it may be recalled that on an investigation in bankruptcy the court may, and habitually does, look behind a judgment and examine the consideration for which it was obtained. This practice is founded on the necessity of preventing fraudulent arrangements by debtors to defeat a particular creditor or creditors. But though the court looks beyond a judgment for tax in the same way as in the case of any other judgment, it will not go behind the *assessment* of the tax, provided that be duly made (*Ex parte Calvert* [1899] 2 Q.B. 145). The facts upon which the assessment is founded are matters for the General or Special Commissioners in assessing or on appeal, and their determination may be questioned only by means of the statutory machinery described in the previous article in this series.

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The Council of The Law Society announce that at the Intermediate Examination held on 11th and 12th March, 1948, 56 out of 101 candidates passed the legal portion and 13 out of 44 candidates passed the trust accounts and book-keeping portion. Nine candidates passed both portions.

The Law Students' Debating Society announces the following subjects for debate in April: Tuesday, 13th April, " That Christianity is a spent force "; Tuesday, 20th April, " That there is no such thing as international law "; Tuesday, 27th April, " That the B.B.C. does more harm than good."

Company Law and Practice

AUTOMATIC RE-ELECTION OF DIRECTORS

ARTICLES which provide for what may conveniently be called the automatic re-election of directors who retire by rotation may have the curious result that though an express resolution for their re-election is defeated at the annual general meeting, yet, unless something further is done, they are deemed to have been re-elected, and accordingly continue in office despite the contrary determination of the company in general meeting. I need hardly say that the question whether or not this situation does result depends primarily on the particular provisions of the relevant articles, but it is liable to arise under common form articles, including, I think, cl. 76 of the 1929 Table A. (As we shall see, however, it will not arise under cl. 92 of the 1948 Table A, which replaces the existing cl. 76.) However curious the result, it is in fact only an instance of the principle that articles of association are binding until altered, and that a result which is directly or indirectly in conflict with the articles cannot be properly achieved by an ordinary resolution.

In *Grundt* v. *Great Boulder Gold Mines, Ltd.* [1948] 1 All E.R. 21, the articles provided for the retirement of one-third of the directors at the annual general meeting. Retiring directors were eligible for re-election, and at any general meeting at which directors retired the company might fill up the vacated offices. Article 102 provided that " if at any general meeting at which an election of directors ought to take place the place of any director retiring by rotation is not filled up, he shall, if willing, continue in office until the ordinary meeting in the next year, and so on from year to year until his place is filled up, unless it shall be determined at any such meeting on due notice to reduce the number of directors in office." At the annual general meeting held in 1947 G retired by rotation from the board and offered himself for re-election, but the resolution for his re-election was defeated. There was no resolution passed to reduce the number of directors in office, nor was any election made of another director to fill the office vacated by G. G claimed that notwithstanding the fact that the express resolution to re-elect him had been defeated the effect of art. 102 was that in the circumstances he nevertheless continued in office; and this contention was upheld by the Court of Appeal.

It was reasonably plain that the conditions required by art. 102 to produce the result of the retiring director being automatically re-elected had been satisfied. G was a director retiring by rotation and his place had not been filled at the meeting; he was willing to continue in office, and no resolution had been passed to reduce the number of directors in office. For the company, however, it was contended, *inter alia*, that an article in the form of art. 102 cannot in common sense operate where a company intimates by express adverse vote that it does not desire the retiring director to continue as director. Support for this view is to be found in the decision of Romer, J., in *Robert Batcheller & Sons, Ltd.* v. *Batcheller* [1945] Ch. 169. In that case a resolution for the re-election of the retiring directors was defeated at the ordinary general meeting, and on a subsequent date to which the meeting was adjourned two new directors were elected to fill the vacancies. The election of the two new directors was invalid owing to defects in the notice of the adjourned meeting, and the retiring directors, the motion for whose re-election had been defeated, claimed that they must be deemed to have been re-elected under an article corresponding to art. 102 in the *Grundt* case. Romer, J., rejected this claim on the ground that such an article only operates when the known circumstances of a particular case are such as sensibly and legitimately to admit of its application; and " to deem that a thing happened when not only is it known that it did not happen, but it is positively known that precisely the opposite of it happened, is a conception which to my mind, if applied to a subject-matter such as that of [this article], amounts to a complete absurdity."

This view of the matter did not meet with the approval of the Court of Appeal in the *Grundt* case. Lord Greene, M.R., said that absurdity, like public policy, is a very unruly horse, because there may very well be considerations which would be well understood by the persons concerned to work the documents in question, but do not readily present themselves to the mind of a judge. " Although the absurdity or the non-absurdity of one conclusion as compared with another may be, and very often is, of assistance to the court in choosing between two possible meanings of ambiguous words, it is a doctrine which has to be applied with great care, remembering that judges may be fallible in this question of an absurdity, and in any event it must not be applied so as to result in twisting language into a meaning it cannot bear. It is a doctrine which must not be used to re-write the language in a way different from that in which it was originally framed."

The result is that in the case of an article providing for the automatic re-election of retiring directors, if their places are not otherwise filled, then, unless the article so provides, the fact that an express resolution for re-election is defeated does not affect the validity of the re-election which is silently effected by the article itself. If the conditions of automatic re-election laid down in the article are satisfied, its operation is not to be prescribed by considerations of whether the result may be absurd. The Court of Appeal in the *Grundt* case, while admitting that the result produced was strange, did not in fact consider that it was necessarily absurd; and it was pointed out that it is quite reasonable to provide that on the retirement of a director by rotation the company may do one of two things—either restore the number of directors by filling the vacancy, or decide to reduce the number of directors in office; and that, if the company does not signify its intention to do either of these two things, the retiring director should continue in office rather than the number of directors be reduced below the number previously found necessary to run the company. One may respectfully doubt whether this aspect of the matter would commend itself to the majority shareholders who, having used their votes to bolt the front door on the re-election of a director, find that he has crept in through the back door left open by the provisions of the article in question. But, in truth, whether the result is absurd or not is irrelevant if the principle is, as the Court of Appeal indicated, that unambiguous words are not to be given a twisted construction because their proper interpretation may produce a result capable of being considered absurd. As I have mentioned, the particular result in this sort of case, whether it is viewed as absurd or only strange, cannot arise under the new Table A, cl. 92 of which provides as follows (the relevant words added to cl. 76 of the 1929 Table A are shown in italics): " The company at the meeting at which a director retires [by rotation] may fill the vacated office by electing a person thereto, and in default the retiring director shall, if offering himself for re-election, be deemed to have been re-elected, unless at such meeting it is expressly resolved not to fill such vacated office *or unless a resolution for the re-election of such director shall have been put to the meeting and lost.*"

In the *Grundt* case two other arguments were put against the claim of the retiring director that he had been automatically re-elected, the first of which had been the ground of the decision of the judge of first instance against the claim. Article 102, it will be observed, applied to " any general meeting at which an election of directors ought to take place "; and Wynn Parry, J., held that the only occasion on which an election of directors " ought " to take place was when the number of directors was reduced to less than the minimum required by the articles. This view was rejected by the Court of Appeal, who pointed out that the word " ought " is not necessarily synonymous with the word " must," but may also signify what is proper, correct or naturally expected;

and having regard to this signification, the phrase "any general meeting at which an election of directors ought to take place," referred simply to "any general meeting at which directors retire by rotation." (The latter, it may be noted, is in substance the phrase used in the corresponding Table A article.) The other argument was based on the concluding words of art. 102, by virtue of which the provision for automatic re-election does not apply if at the meeting it is determined on due notice to reduce the number of directors in office. It was said that what took place was in effect a determination to reduce the number of directors in office, since the meeting refused to elect the retiring director, took no steps to fill the vacancy, and in no way indicated its desire to maintain the number of directors at the number at which it was at the commencement of the meeting. Lord Greene, M.R., in rejecting this argument, said that the concluding words of art. 102 required a specific resolution, e.g., "that the retiring directors be not re-elected, and that the vacancies thereby created be not filled up, and that the number of directors be reduced accordingly." Cohen, L.J., based his rejection of the argument primarily on the fact that the concluding words of the article required due notice of an intention to reduce the number of directors in office, and the notice of the meeting contained no intimation of any such intention. It will be observed that under cl. 92 of the 1948 Table A no resolution to reduce the number of directors (and accordingly no notice of such a resolution) is required in order successfully to leave the office of a retiring director vacant; all that is necessary is either to defeat the resolution for his re-election or expressly to resolve not to fill the vacated office. Incidentally, it is a pleasure to welcome in the 1948 Table A the substitution of the simple word "fill" for the ugly and tautological "fill up" of its predecessor.

S.

A Conveyancer's Diary

DEATH DUTY CONCESSIONS AND PERSONAL REPRESENTATIVES

A PERSONAL representative, as the person who is primarily accountable for all death duties leviable or payable on the death of the deceased in respect of land, often finds himself in a difficult position when the estate which he has to administer is small. The law will afford him complete protection against any personal liability for charges of this nature, but only at the cost of observing a series of rules which, human nature being what it is, are not always easy to reconcile with the immediate interests of the beneficiaries or of the estate as a whole.

The particular problem which has prompted these remarks arises out of one of the war-time concessions in regard to death duties. A number of these concessions were withdrawn last year, and it was recently announced that at the end of the financial year which has just closed a further step will be taken towards their gradual extinction, but a few are still operative. Among them is the concession whereby the ordinary revenue rule of valuing property for the purpose of estate duty by taking the market value of the property as at the death of the deceased is modified in the case of a dwelling-house which was both owned and occupied by the deceased in his lifetime, and where the house continues to be occupied after the death by a near relative of the deceased who was ordinarily resident with him at the date of death and has no other place of residence available. In such a case any increase in the value of the house, in so far as it could only be realised by a sale of the premises with vacant possession, is disregarded for the purposes of the Inland Revenue valuation, but any valuation made on this footing is open to readjustment if the house is sold or let within a reasonable period of the death. The period which was suggested as reasonable for this purpose at the time when this concession was first announced was two years, and I believe it is the practice of the estate duty office to make no further claim after the expiration of two years from the death in the ordinary case. This period may, therefore, be taken as the length of time during which the personal representative should take what precautions he can to avoid the possibility of being called to account for duty, should a house in respect of which this concession has been made be then sold or let. It will be my purpose to-day to suggest, with reference to the statutory provisions bearing on this problem, what course the personal representative may be advised to take.

We may take as a very common case that of a testator who leaves his house to his widow absolutely, and directs that the residue of his estate shall be divided between the widow and the children of the marriage in certain shares. If the estate is small and the beneficiaries not well off, pressure will almost certainly be brought to bear on the personal representative to administer and distribute the assets with all possible speed, and he himself will probably be anxious to finish his task without delay and with the minimum of expense. It is therefore unlikely that the provisions of s. 36 (10) of the Administration of Estates Act, 1925, will be of much assistance. Under that provision a personal representative may, as a condition of giving an assent, require security for the discharge of death duties or other liabilities, but if reasonable arrangements have been made for discharging the same he is not entitled to postpone the giving of an assent merely by reason of the subsistence of any such duties or other liabilities. The nature of the security which the personal representative may request is left open, but it is expressly provided that an assent may be given subject to any legal estate (e.g., a term of years) or to a charge by way of legal mortgage. As to this last possibility, the expense of creating a mortgage or a term of years in favour of the personal representative as a condition of the assent may well prove to be out of proportion to the necessity of the case, especially when it is borne in mind that the security required is a precaution against an event which may never occur, and is, in any event, needed for a relatively short period. The alternative which immediately presents itself is to retain a sufficient part of the residue to meet any increased duty which may become payable on a sale or letting of the house, but unless the residuary legatees are co-operative and permit the personal representative to put his own reasonable valuation on the house, this will involve a professional valuation for the purpose of ascertaining the market value of the premises with all the attendant expense, and the estate accounts will also have to be kept open until a final distribution may safely be made. Such proceedings are not popular with the personal representatives of estates of the type I have in mind, nor with those who benefit thereunder.

Perhaps the simplest course in such circumstances is for the personal representative to take a bond from the devisee of the house to cover any possible increase in the duty, but while this course is fully justified by s. 36 (10) and will afford all the protection required, it may have the disadvantage of being repugnant to the parties concerned if they are related, or even intimately acquainted. For this reason it may be advisable to turn to other sections of the Act and advantage may often be taken of s. 43. Section 43 (1) empowers a personal representative to permit any person entitled to any land to take possession of the land before giving an assent, and provides that such possession shall not prejudicially affect the right of the personal representative to take or resume possession, but subject to the interest of any lessee, tenant or occupier in possession or in actual occupation of the land. If the devisee is allowed into

possession under this provision the personal representative maintains his control over the premises, and even if the premises are let without his knowledge or consent during the period of two years from the testator's death, so as to attract an increased duty, he will be entitled to resume possession of the reversion and, if necessary, sell in order to meet the extra duty. A sale by the devisee while in possession is, of course, out of the question if the personal representative retains the title deeds of the premises.

This procedure has, in my opinion, the great advantage of enabling all persons concerned to dispense with the execution of any formal documents, such as are apt to engender mutual distrust between members of certain classes of the population, and the residue may then be distributed forthwith. If an assent is prepared before the estate accounts are closed, for execution by the personal representative at the end of the two-year period, the expenses involved on the final transaction will be negligible and may reasonably be borne, by arrangement, by the devisee. It is true that there will be a danger of the assent being forgotten, but as under s. 43 (2) of the Act any person who claims possession of real estate as against the personal representative may apply to the court for directions, and the court may thereupon make a vesting order in relation to the land, the danger of any ultimate complication on the title is slight. Moreover, if the personal representative and the devisee are both informed in good time of the necessity for an eventual assent, and of the consequences which will ensue if no assent is made, it may be assumed that they will comply with the advice they are given.

In the ordinary way the danger period from the estate duty point of view in cases where this concession applies is two years. As, however, this concession is purely extra-statutory it is not, in my view, safe to assume that the estate duty position will never be reviewed if the house in question is sold or let after a lapse of two years from the testator's death. The applicability of all these revenue concessions depends on circumstances, and one of the most material factors in the eyes of the estate duty office may well be the size of the estate or (in the case of the concession with which I have dealt) the value of the house. In my opinion, where either the estate as a whole, or the value of the house, is considerable, a personal representative would be well advised to seek the opinion of the estate duty office as to the possibility of an increased valuation in the event of a sale or a letting in the future, even if the normal period of two years has elapsed, before final distribution of all the assets. It is better, I consider, to make provision for future calls while the personal representative still retains control of the assets or some of them, than to rely on his statutory right to recover property which has already been distributed, or to seek to be indemnified thereout.

I concluded some recent remarks on the vexed question of options to purchase (p. 107, *ante*), with the statement that "on the present state of the authorities, an assignee of land subject to an option is bound by the covenant and, if all the relevant conditions as to perpetuities, registration and the like are satisfied, the covenant will be enforced against him." A correspondent has objected to this conclusion on two grounds: (*a*) that an option, as an estate contract, is only binding on a purchaser for value if it is registered, and (*b*) that an option need not be the subject of a covenant, as it may properly be created in any manner provided that it satisfies the Statute of Frauds. I must respectfully agree with both these objections. As to the first, perhaps my conclusion was sufficiently guarded, if my correspondent will read it again; but as to both, I think a few words of further explanation will not be out of place. My remarks on options on this occasion were an appendage to a somewhat more extensive treatment of the subject which appeared in this "Diary" on the 13th, 20th and 27th December, 1947. I then dealt fully with the question of registration and I also pointed out that, although I had viewed the problem for the most part from the point of view of lessor and lessee, my general statements applied equally well to occasions when that relationship did not exist. In these circumstances I used the phraseology apt to describe an option contained in a lease as if it were of general application, but I am glad of this opportunity to make it clear that, *mutatis mutandis*, my words were intended to have a wider significance.

"A B C"

Landlord and Tenant Notebook

REQUISITION AND CONTROL

"GENERALLY," writes a correspondent, "houses owned by the local authority are outside the Rent Acts; but," he proceeds, "are properties which have been taken over by the Ministry of Health and then handed over to the local authority to administer and relieve accommodation difficulties also outside the Acts?"

Our correspondent's preliminary observation applied, of course, to houses provided by authorities under the Housing Act, 1936; the exclusion is enacted in s. 156 (1), the effect of which was recently argued in and illustrated by *L.C.C.* v. *Shelley* [1947] 2 All E.R. 720 (C.A.) (see 91 SOL. J. 687). Consideration of the question he then puts—while I think that there can be little doubt what the answer must be—raises some interesting points.

It was answered a few years ago by the decision in *Southgate Borough Council* v. *Watson* [1944] K.B. 541 (C.A.); but it is quite possible that the same answer might now be arrived at in a different way. The facts of that case were that the Minister of Health requisitioned a house under Defence Regulation 51, for the purpose of accommodating people who had lost their homes as a result of enemy action. The Minister delegated his functions under the regulation to clerks to local authorities, the instruments expressing such delegation being known as "Circulars 1949 and 2082." These circulars, however, limited the local authority's powers in that houses were not to be retained longer than was specially indicated or than was necessary. Other documents confirmed the requisitioning of the house, possession of which was claimed in the action, in which the defendant, who had been "bombed out" of his own house, had been accommodated; and in other documents addressed by the borough treasurer to the defendant, he had been told that he was "required to pay a reasonable *rent*." The word "rent" occurred three times in all in that communication, and when the plaintiffs invited the defendant to sign an agreement (which they described as a tenancy agreement) and he refused and they sued him for possession, the argument that he was a protected tenant was based largely on the references to rent. It was contended that by using that word, the council had granted a tenancy, not a licence. However, *Taylor* v. *Caldwell* (1863), 11 W.R. 726, and numerous other authorities, have established that it is the substance and not the form of an agreement that matters (a principle which, I may mention, underlies the letter published in our issue of 13th March (92 SOL. J. 153) on a different topic). It was also contended that as the Minister had powers under Defence Regulation 51 to grant a tenancy, there had been a contractual letting of the house before the refusal to sign the agreement, even if that agreement, despite the authority's characterisation thereof, did not amount to a tenancy agreement. But the county court judge, in what was described by Scott, L.J., as a "simple, short and entirely sound judgment," decided that the council had been in possession only by virtue of the powers granted to them by the Minister, who had, it was shown, limited those powers to the provision of temporary accommodation.

The above decision was not mentioned in the course of the arguments or judgments in the recent case of *Blackpool Corporation* v. *Locker* [1948] 1 All E.R. 85 (C.A.), as I think it deserved to be. For the facts were that the same Minister, acting under the same Defence Regulation, issued "circulars" to local authorities which likewise contained conditions. The circulars on this occasion, and the conditions, concerned the requisitioning itself. The importance of the decision is not, however, that it impugns the validity of such documents—it does not—but it lays down clearly that they are legislative instruments (indeed, Scott, L.J., was "tempted to wonder whether someone in the Ministry had thought the name 'circulars' would save them from recognition as delegated legislation."). They were, the same learned judge said, well drafted for the purpose of effecting a considerate and fair adjustment between the public duty of housing the homeless and the private rights of the individual householder in possession, and the judgments in fact upheld them and the conditions as valid. But, apart from some very trenchant criticism levelled at the interpretation placed on the particular circulars by Government and municipal functionaries, the reluctance of both to disclose the contents of these instruments was condemned in no measured terms.

I do not, of course, suggest that there is any inconsistency between this decision and that of *Southgate Borough Council* v. *Watson*, but merely that, as a result of the observations made, it will be more easy for a defendant in such cases to ascertain what his legal rights are.

But another thing that has happened since *Southgate Borough Council* v. *Watson* is some development in, or at all events further reminders of the rule that the Crown is not bound by the Increase of Rent, etc., Restrictions Acts. There was authority to this effect at the date of the decision, and it is merely an application of the age-old principle that the Crown is not bound by any statute not naming it; but last year *Territorial Forces Association* v. *Philpot* [1947] 2 All E.R. 376, and *Rudler* v. *Franks* [1947] K.B. 530, re-emphasised the privileged position of the Crown. It is true that the decision in *Blackpool Corporation* v. *Locker* was based partly on findings and rulings that the Minister had not himself requisitioned the house concerned, and that while he had delegated his function he could not exercise it himself; but it is implicit in the judgments that such delegation could cease. And it seems likely to concern someone in the Ministry, in an apt case, that if there is, despite precautions, likely to be any trouble arising out of a plea that the defendant is a protected tenant, the simplest thing would be for the council to hand the house back or over to the Minister who, like Hamlet's uncle, can rely on the divinity which doth hedge a king.

R. B.

TO-DAY AND YESTERDAY

LOOKING BACK

THE present discussions as to the constitution of the House of Lords add interest to the following extract from Lord Chief Justice Campbell's diary, dated 10th April, 1856. Lord Justice General McNeill and Lord Justice-Clerk Hope had that day given evidence before the Select Committee on the Appellate Jurisdiction of the House of Lords, the former advocating that a Scottish lawyer should be made a life peer and the latter opposing the suggestion. Campbell, although himself a Scot, was against it. He wrote: "I think that my suggestion of a Judicial or Appellate Committee will be adopted. No good will arise from the addition of a Scottish lawyer as a member of it but the proposal is so plausible that I fear it cannot be resisted. The Government acknowledge that they cannot by the prerogative of the Crown force a peer for life into the House. They mean to ask for the authority of Parliament to create four peers for life with a view to the judicial business of the House of Lords. This I shall not oppose. Lord Grey means to move an extension of the power to create life peers. This might be at times very convenient but would be tampering dangerously with the hereditary character of the peerage." The question had been raised in January when an attempt had been made to make Mr. Baron Parke a life peer. The Committee of Privileges, however, decided that the Crown had no power to do so. Accordingly, in July, he was raised to the peerage in the ordinary way as Lord Wensleydale.

PRELUDE TO A PEERAGE

ON the question of the admission of women to the House of Lords there has likewise been some discussion and it has been pointed out that peerages have been bestowed on them in the past. Lord Campbell's career provides an instance in the peerage conferred on his wife, the eldest daughter of Lord Abinger, in January, 1836. The circumstances were not without a certain entertainment value. In 1834 the aspiring and industrious Campbell, then plain Sir John Campbell, became Attorney-General. He was a valuable Law Officer and when in September Sir John Leach, the Master of the Rolls, died, he allowed himself to be passed over in favour of Sir Christopher Pepys, the Solicitor-General. Some months before, he had been told that "there had been no Attorney-General since Perceval whose presence in the House of Commons was so important to the Government and that the measures in contemplation could not be got through without him." Well and good that time, but sixteen months later the same patriotic gesture was again demanded. In January, 1836, Pepys became Lord Chancellor and Baron Cottenham while Henry Bickersteth was given the Rolls with the title of Baron Langdale. This was too much for Campbell, even though he was assured that he could not be spared from the Commons. When he heard what was intended he gave Lord Melbourne and Lord John Russell clearly to understand that "the Minister must be allowed to choose his own Chancellor, who was to sit in the Cabinet with him according to his taste, but that I considered I had an unquestionable right to the Rolls and that if this was disregarded I should certainly resign."

VICARIOUS HONOUR

HE was as good as his word. As soon as he knew that the deed was done he wrote a formal resignation and drove to South Street to see the Prime Minister. Lord Melbourne again assured him that he was indispensable in his present position, adding that "when it was very desirable to keep a political man in the House of Commons and to mark the sense entertained of his public services, there were several approved precedents for making his wife a peeress; that a peerage thus conferred on my family would be very honourable to me and would effectually remove any notion of my being slighted; that, if I would consent, he trusted the King would agree to this arrangement." So Campbell left with his resignation in his pocket unopened and next day learnt that the King had consented and that he had only to choose a title. Thus did Lady Campbell become Baroness Stratheden of Cupar in the County of Fife, her husband's birthplace. In the *Gazette* the creation was sandwiched between that of Pepys and that of Bickersteth. The incident caused some amusement. Jekyll called it "the Camel going through the eye of a needle," and Lord Denman, C.J., commented in a letter on "his indecent boast that he had resigned and the oddity of his subsequent reconciliation." His father-in-law, Lord Abinger, when he was congratulated, at a meeting of the judges, on the elevation of his daughter, replied rather abruptly that "it was no matter of congratulation to him." Campbell overtook his wife in the peerage in 1841 when he became Lord Chancellor of Ireland, his first step to higher things.

At a meeting of the Law Students' Debating Society, held at The Law Society's Court Room, on Tuesday, 9th March, 1948 (chairman, Mr. B. Greenby), the motion "That this house approves of the new principles of the law of land tenure as established by the Town and Country Planning Act, 1947," was lost by one vote, there being eight members and five visitors present.

At a meeting of the Law Students' Debating Society held at The Law Society's Court Room, on Tuesday, 23rd March (Chairman, Mr. F. D. Kennedy), the motion "That in the opinion of this House the doctrine of *Rylands* v. *Fletcher* (L.R. 3 H.L. 330) applies to claims for personal injuries as well as to claims for damage to property" was lost by one vote, there being twelve members and four visitors present.

NOTES OF CASES

COURT OF APPEAL

CHARITABLE TRUSTS: CONTEMPLATIVE NUNS

***In re* Coats' Trust**

Lord Greene, M.R., Asquith and Evershed, L.JJ.

9th March, 1948

Appeal from a decision of Jenkins, J.

By a declaration of trust, a sum of money was given to trustees to be held in trust for a certain priory of nuns if its purposes were charitable, and, if the purposes were not charitable, in trust for another religious body. The summons was taken out to ascertain whether the purposes of the convent were or were not legally charitable. Affidavits by the prioress and Cardinal Griffin deposed that the convent comprised an association of strictly cloistered and purely contemplative nuns, who performed no works and engaged in no activities for the benefit of the public, devoting themselves entirely to worship, prayers, and meditation within the convent, but who were regarded in the belief and teaching of the Roman Catholic Church as causing, by means of such private worship, prayers and meditations, the intervention of God for the spiritual improvement of members of the public, and also as providing an example of self-denial and spiritual life which tended to edify the public. Jenkins, J., held that the purposes of the convent were not charitable (91 SOL. J. 434).

LORD GREENE, M.R., said that counsel for the prioress did not challenge the authority and correctness of *Cocks* v. *Manners* (1871), L.R. 12 Eq. 574, but contended that the additional evidence adduced in the present case rendered that decision inapplicable, and adduced the following arguments: (*a*) though public benefit was an essential element in a charitable gift, its presence must be assumed unless the religious body is harmful to the public; (*b*) the belief of the Roman Catholic community that the prayers and worship of the nuns were efficacious in benefiting the public in the manner alleged must be accepted as true; (*c*) the nuns, by the holiness of their lives, so edified the public as to produce a public benefit. On the first point, public benefit was a necessary element in all charitable trusts (*National Anti-Vivisection Society* v. *Inland Revenue* [1948] A.C. 31). But the contrary of "beneficial" was not "detrimental" but "non-beneficial"; a gift might be beneficial to religion, but of such a private nature as to confer no benefit on the public; *Cocks* v. *Manners* (*supra*) was a good example of this, also *Hoare* v. *Hoare* (1886), 56 L.T. 147. As to the second point, when it had to be decided whether a religious gift conferred a public benefit, a question of fact arose which must be proved in evidence; religious beliefs were incapable of proof, and could not be accepted by the court as of probative force. No authority was known in which the existence of a public benefit had been proved otherwise than by proof of works which had a demonstrable impact on the public. *In re Caus* [1934] Ch. 162 was distinguishable on the facts, and some of the reasoning was not quite clear. The belief of a section of the public could not be effectual to prove the existence of the public benefit. As to the third point, if public edification were held to constitute sufficient public benefit, it would be impossible to draw the line; a gift to a hermit of celebrated sanctity would be charitable. Edification, in the sense contended for, could not be admitted into the category of public benefits within the spirit and intendment of the statute, and *Cocks* v. *Manners* was not, as had been argued, an authority to the contrary. Charitable trusts existed for the payment of persons to do good; in the present case, the payment to the nuns would be not for doing good, but for being good. There was no authority for the proposition contended for, and there was no known principle to support it. The gift to the convent would fail, and the appeal would be dismissed.

EVERSHED, L.J., delivered judgment to the same effect.

ASQUITH, L.J., agreed.

APPEARANCES: *R. R. A. Walker, G. Hewins* (*Witham & Co.*); *H. H. King* (*Ellis, Bickersteth, Aglionby & Hazel*).

[Reported by F. R. DYMOND, Esq., Barrister-at-Law.]

LOCAL GOVERNMENT: CLAIM TO SUPERANNUATION BENEFIT

Wilkinson *v.* Barking Corporation

Scott, Bucknill and Asquith, L.JJ. 15th March, 1948

Appeal from the Divisional Court (63 T.L.R. 347).

After more than ten years' service with the defendant local authority, the plaintiff purported to resign on the grounds of ill-health. The authority, ignoring the resignation, gave him a month's notice on the ground that, in view of a surcharge made on him by the district auditor in respect of sums totalling £6 15s. 5d., said improperly not to have been brought into account, they had decided that he was entitled to no more than a refund of his superannuation contributions, without interest. The plaintiff employee then brought an action claiming a declaration that he was entitled to an annual superannuation allowance under s. 8 (1) (*a*) of the Local Government Superannuation Act, 1937. The authority entered an unconditional appearance, but pleaded in their defence that the action was, by virtue of s. 35 of the Act, not maintainable. The employee contended (1) that the authority were not entitled to set up the exclusion of the court's jurisdiction by s. 35 when they had submitted to that jurisdiction by entering an unconditional appearance, and (2) that the employee was not an "employee" within the meaning of s. 35 because he was no longer in the employment of the authority when the issue of his right to superannuation benefit arose for decision. Morris, J., decided against the employee on both contentions and he now appealed. By s. 35 of the Act of 1937: "Any question concerning the rights of an employee of a local authority . . . under . . . Part I of this Act . . . shall be decided in the first instance by the authority concerned," but the employee has a right of appeal to the Minister of Health whose "determination shall be final." (*Cur. adv. vult.*)

ASQUITH, L.J., reading a judgment in which Bucknill, L.J., concurred, said that the authority could not, by entering an unconditional appearance, submit to a jurisdiction which, by virtue of s. 35, the court did not possess. The authority had submitted only to the court's separate jurisdiction to decide whether it had jurisdiction to entertain the action. As for the second contention, on the true construction of s. 35 and having regard also to the use of the word "employee" in other provisions of the Act, that word was not confined to persons who were still in the employment of the corporation when the question of their rights arose. The plaintiff was accordingly deprived by that section of his right of action.

SCOTT, L.J., read a concurring judgment in which he called attention to the grave danger to the real freedom before the law of all local government servants constituted by s. 35. Appeal dismissed.

APPEARANCES: *Malone*, K.C., and *Rodger Winn* (*Kingsford, Dorman & Co.*, for *Hatton, Asplin, Jewers & Glenny*, Barking); *Harold Williams*, K.C. (*Sharpe, Pritchard & Co.*, for *the Town Clerk*, Barking).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

CHANCERY DIVISION

EMERGENCY LEGISLATION: ENFORCEMENT OF SECURITY

***In re* Newport Construction Co., Ltd.; Barclays Bank, Ltd. *v.* The Company**

Roxburgh, J. 21st January, 1948

Motion.

The company, which carried on business as a builder and contractor, issued to the bank in 1946 a debenture to secure sums due from time to time. There were three shareholders, two of whom, the sole directors, were killed in an aeroplane accident in August, 1947. No other directors had been appointed; the deceased were debtors to the company, whose business had come to a standstill; the company was without funds, creditors were pressing, and certain partially completed houses were deteriorating. The bank, which desired to protect its interests and to ensure that there should be management and control in the interests of all concerned, moved for a declaration that the debenture was a first charge on the assets and for the appointment of a receiver and manager, without applying for leave in accordance with s. 1 (2) of the Courts (Emergency Powers) Act, 1943, which provides that a person shall not be entitled except with leave of the court ". . . (*b*) to institute any proceedings for foreclosure or for sale in lieu of foreclosure . . . Provided that nothing in this subsection shall affect . . . (*g*) the institution of any proceedings for the appointment by the court of a receiver of any property."

ROXBURGH, J., said that jeopardy had been clearly established. The writ was so framed that the relief claimed was not within the ambit of the prohibition contained in s. 1 (2) of the Courts (Emergency Powers) Act, 1943, but the appointment of a receiver and manager was a discretionary remedy and he must consider whether the appointment should be made, having regard not only to the letter but also to the spirit of the Act. It was

desirable that an immediate appointment should be made, but there might be great difficulties if there was an extended receivership without power of foreclosure or sale. He would appoint a receiver and manager for three months, subject to the bank undertaking to apply at once for leave under the Act to amend the writ by adding a claim for foreclosure or sale. The position could be further considered when the result of that application was known.

APPEARANCES: *Hon. D. Buckley* (*Taylor, Willcocks & Co.*, for *Bailey & Adams*, Newport, I.o.W.).

[Reported by F. R. DYMOND, Esq., Barrister-at-Law.]

CHARITABLE TRUST: "FOR ANY PURPOSES IN CONNECTION WITH THE SAID CHURCH"

_In re_ Eastes; Pain _v._ Paxon

Jenkins, J. 25th February, 1948

Adjourned summons.

The testatrix left her residue in trust for the vicar and churchwardens of a church, with directions that the income was "to be used by the said vicar and churchwardens for any purposes in connection with the said church which they may select it being my wish that they shall especially bear in mind the requirements of the children of the said parish," and that no portion was to be used for overseas missions. The summons was taken out to ascertain whether the gift was valid.

JENKINS, J., said that there were already a number of cases drawing fine distinctions, and that he did not wish to add to them. It was well established that a plain gift to a vicar and wardens was charitable, and it further appeared from *In re Garrard* [1907] 1 Ch. 382 that such a gift, to be applied by them as they should think fit, was also valid. In *In re Bain* [1930] 1 Ch. 224, it was held that a gift for "such objects in connection with the church" as should be thought fit, was valid, but a distinction was drawn between "objects connected with the church" and "parochial activities," the latter being held not charitable in *Farley* v. *Westminster Bank* [1939] A.C. 430. In *In re Simson* [1946] Ch. 299, a gift to a vicar "to be used in his work in the parish" was held valid, and in *In re Davies* (1932), 49 T.L.R. 5, a gift to an archbishop "for work connected with the Roman Catholic Church in the said archdiocese" was held not to be charitable. It had been argued, on the authority of *In re Davies*, that "purposes in connection with the church" must mean something wider than "purposes of the church" and must include objects not necessarily charitable; but in *In re Davies* the gift was not for a particular church, but related to work carried on by the Roman Catholic Church in an archdiocese, and was thus distinguishable, and in *In re Bain*, *supra*, it was held that the words "for such objects connected with the church" did not enlarge the gift. The directions regarding the children were merely precatory, and did not make the present case distinguishable from *In re Bain*. The direction regarding foreign missions was said to enlarge the scope of the gift, as excluding expressly something outside the maintenance of the church, its fabric and services, and showing that the testatrix had something wider in mind. But it should be considered as something added *ex abundanti cautela*, a superfluous restriction which did not alter the effect of what had gone before. The gift was valid, and a scheme should be settled. Costs of all parties as between solicitor and client would be paid out of the estate.

APPEARANCES: *Droop* (*Kinch & Richardson* for *Gardner and Allard*, Whitstable); *Wigglesworth* (*Lee, Bolton & Lee*); *Danckwerts, Newsom* (*Treasury Solicitor*).

[Reported by F. R. DYMOND, Esq., Barrister-at-Law.]

KING'S BENCH DIVISION

RAILWAYS: PROTECTION FOR WORKERS ON PERMANENT WAY

Dyer _v._ Southern Railway Co.

Humphreys, J. 25th February, 1948

Action tried by Humphreys, J.

A gang of men, under the direction of their ganger or foreman, were repairing the permanent way of the defendant company's railway at a railway station. The men were strung out along the down-track. Eighty yards from the station was the mouth of a tunnel from which down-trains would emerge. The gang's look-out man was stationed close to the mouth of the tunnel. The member of the gang farthest from it was actually in the station and so next to the platform, which was 3 ft. 4 in. high. As the down-train emerged from the tunnel, an up-train which had just left the station was entering it. There was considerable noise also from traffic along the road over the mouth of the tunnel. The weather was damp and such as to accentuate the tendency of steam from engines to linger inside the mouth of the tunnel. In consequence of all those circumstances, the look-out man neither saw nor heard the approaching down-train until it emerged from the tunnel, when his whistled warning was too late to be effective. The member of the gang working in the station ran along the track in front of the approaching train, fell flat on his face and was killed, though the train did not touch him, because his spleen was ruptured through the extreme exertion. His widow brought this action for breach of common-law and statutory duty by the company. By r. 9 of the Prevention of Accidents Rules, 1902, ". . . the railway companies shall in all cases where any danger is likely to arise provide persons or apparatus for the purpose of maintaining a good look-out or for giving warning against any train or engine approaching such men so working . . ." (*Cur. adv. vult.*)

HUMPHREYS, J., said that the company had failed in their common-law duty to adopt a safe system of working in that, while they had provided a look-out man, the circumstances were such that the look-out was necessarily ineffective, and that, if it was necessarily ineffective, their duty was to permit work on the permanent way at that point only when trains were not running. The company were not absolved from their common-law duty by the fact that the ganger was, by the rules of the company, under a duty to appoint an extra look-out man where the circumstances demanded it. Notwithstanding that the company had complied with r. 9 of the rules of 1902 to the extent of providing a competent man, with the necessary appliances, as a look-out, they had committed a breach of their duty under the rule in providing only a look-out stationed outside the tunnel, for the rule contemplated the employment of more than one look-out where necessary in order to carry out the duty imposed by it to protect men working on or near the track.

APPEARANCES: *Berryman*, K.C., and *Salter Nichols* (*Pattinson and Brewer*); *Edgedale*, K.C., and *Neil Lawson* (*H. F. Burt*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

COURT OF CRIMINAL APPEAL

CRIMINAL LAW: EVIDENCE OF ONE CO-DEFENDANT

R. _v._ Rudd

Lord Goddard, C.J., Humphreys and Birkett, JJ.
1st March, 1948

Application for leave to appeal from conviction and sentence.

The applicant was convicted at Birmingham City Sessions of receiving stolen property, and sentenced to three years' penal servitude. He now sought to appeal on the ground of misdirection.

HUMPHREYS, J., giving the judgment of the court, said that the second ground of appeal was the deputy recorder's failure to tell the jury that the sworn evidence of the applicant's co-defendant, one Powell, should not be used in evidence against the applicant, in accordance with *R.* v. *Meredith* (1943), 29 Cr. App. R. 40. Ever since its establishment, the Court of Criminal Appeal had stated the law to be that, while a statement made in the absence of a prisoner by one of his co-defendants could not be evidence against him, if a co-defendant gave evidence in the course of the trial of both of them, then what he said became evidence for all the purposes of the case, including, of course, the case of his co-defendant. *R.* v. *Meredith*, *supra*, had most assuredly decided nothing to the contrary. In that case, the Recorder of London, in his summing-up, after distinguishing between statements made by one co-defendant in the absence of others and evidence given by them at the trial, went on to tell the jury that whenever a number of prisoners were in the dock he warned the jury that they should try so far as possible not to use any evidence given by an accused person against any one of his co-defendants. The Court of Criminal Appeal held that that was a proper direction, but was approving of the practice adopted by the recorder quite apart from the rule of law about the evidence of one co-defendant at the trial being evidence for all purposes. It was further complained that the deputy recorder had failed to warn the jury that the evidence of the applicant's accomplice required to be corroborated before they accepted it. It would have been better if the deputy recorder had given that direction, but, as there had been ample corroboration of the co-defendant's evidence, also in the evidence of the applicant himself, the court would do what it did in *R.* v. *Garland* (1941), reported as a note to *R.* v. *Meredith*, *supra*, and refuse to interfere with the verdict. Appeal dismissed. Sentence reduced to eighteen months.

APPEARANCES: *G. A. J. Smallwood* (*Registrar, Court of Criminal Appeal*).

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

PARLIAMENTARY NEWS

QUESTIONS TO MINISTERS

PETTY SESSIONS CLERKS

Mr. HECTOR HUGHES asked the Secretary of State for the Home Department what are the qualifications for the position of petty sessions clerks; how many are there in England and Wales; what are their respective qualifications and ages, and what supervision is kept over the discharge of their duties.

Mr. EDE: Subject to special provisions in some local Acts, a clerk to the justices of a petty sessional division or a borough must be a barrister of not less than fourteen years' standing, or a solicitor, or must have served for not less than seven years as a clerk to a police or stipendiary magistrate or to a Metropolitan magistrates' court or to one of the magistrates' courts of the City of London; in addition, a person is eligible for appointment if he has served for not less than fourteen years as an assistant to a justices' clerk where in the opinion of the justices there are special circumstances rendering such an appointment desirable. There are at present 778 clerks to justices in England and Wales. I have no detailed information as to their qualifications and ages. A clerk to justices holds office during the pleasure of the justices.

Mr. HUGHES: Is it not a fact that there are at present a number of survivals of unqualified men from a previous period; will the Home Secretary see that in future, in view of the responsible and technical nature of the work, only qualified men are appointed, and will he revise these appointments which are occupied at present by unqualified men?

Mr. EDE: I desire to see people with the best possible qualifications appointed, but I have no power to revise the type of appointment to which my hon. and learned friend refers.

[24th March.

BOMBED PROPERTY (TENANCIES)

Asked by Mr. BOYD-CARPENTER whether legislation was proposed in view of the hardship to tenants of bombed property occasioned by the decision of the Court of Appeal in *Ellis & Sons Amalgamated Properties, Ltd.* v. *Sisman*, the MINISTER OF HEALTH said that he could hold out no prospect of early legislation. The case was decided on an extremely delicate point of law, he said, but the Government would consider whether any help could be given. [24th March.

NATURALISATION OF POLES

In answer to a question by Mr. HEATHCOAT AMORY, the HOME SECRETARY made the following statement on the naturalisation of ex-members of the Polish armed forces:—

Applications will be received from ex-members of these forces who:—

(*a*) have been resident in the United Kingdom or elsewhere in His Majesty's dominions, whether while serving in the Polish armed forces or otherwise, for at least five years, and who have—

(*b*) either (i) having joined H.M. forces on a regular engagement, served therein for at least a year, or (ii) been for at least a year in useful civilian employment in the United Kingdom.

Applications will not be received under this scheme from persons who, while still embodied in Polish formations, were offered the opportunity of passing through the Polish Resettlement Corps but declined that opportunity. All persons desiring to apply under this scheme must, in addition to completing the normal form of application (Naturalisation Form A), complete a special form relating to their service in the Polish forces (Naturalisation Form X). Copies of this form are being printed and will be available together with a covering leaflet, on or before the 1st May next, in the usual way. [25th March.

RECENT LEGISLATION

STATUTORY INSTRUMENTS 1948

No. 621. **Act of Sederunt** (Unopposed Executry Petitions), 1948.

No. 586. **Companies** (Articles of Association) Regulations, 1948. March 22.

No. 631. **Electricity** (Security Values) No. 2 Order, 1948. March 25.

No. 555. **Fire Services** (Compensation) Regulations, 1948. March 19.

No. 613. **Local Government** (Special and Parish Rates) (Third Fixed Grant Period) Regulations, 1948. March 24.

No. 585. **Miscellaneous Goods** (Prohibition of Manufacture and Supply) (No. 11) Order, 1948. March 22.

No. 567. **National Health Service** (Transfer of Local Authority Functions) Regulations, 1948. March 19.

No. 563. **National Insurance** (Approved Societies) Regulations, 1948. March 22.

No. 580. **Safeguarding of Industries** (Exemption) (No. 3) Order, 1948. March 24.

[Any of the above may be obtained from the Publishing Department, S.L.S.S., Ltd., 88/90, Chancery Lane, London, W.C.2.]

PROVINCIAL LAW SOCIETIES

The seventy-second annual general meeting of the BRADFORD INCORPORATED LAW SOCIETY was held at the Law Library, Bradford, on 17th March, when the following officials were appointed: President—Mr. A. R. B. Priddin (of Messrs. Cawthron, Priddin & Read, 31, Ivegate, Bradford); Senior Vice-President—Mr. C. T. Law-Green (of Messrs. Mumford, Thompson & Bird, 5, Manor Row, Bradford); Junior Vice-President—Mr. John L. Wade (of Messrs. Wade & Co., Lloyds Bank Chambers, Hustlergate, Bradford); Joint Hon. Secretaries—Messrs. H. B. Connell and S. Ackroyd.

On 24th March the SHEFFIELD DISTRICT INCORPORATED LAW SOCIETY gave a luncheon to Col. W. Mackenzie Smith in honour of his being President of The Law Society. The luncheon was held at the Royal Victoria Station Hotel, Sheffield, and was attended by some ninety members of the Society. The President, Mr. J. G. Chambers, voiced the congratulations of the members, to which Col. Mackenzie Smith replied.

The YORKSHIRE LAW SOCIETY held its 162nd annual general meeting at the Law Library, Stonegate, York, on the 23rd March, 1948. Mr. B. Dodsworth, of York, the President, presided. Mr. R. Tute Pearson, of Helmsley, was elected President for 1948, and Mr. John C. Peters, of York, was elected Vice-President. Mr. P. W. Whitfield, of York, was elected Hon. Treasurer in succession to Mr. F. Perkins, who had retired after thirty-seven years. The committee was elected and various sub-committees and representatives on other bodies were appointed. It was decided to hold regular meetings to discuss matters of interest to the profession and to arrange lectures upon recent legislation. The President entertained the members and their ladies to tea after the meeting.

NOTES AND NEWS

Professional Announcements

Mr. Norman Thomas Baynes and Mr. Charles Frederick Gould, practising as T. G. Baynes & Sons, at 12 High Street, Dartford, Kent, and 102B Broadway, Bexleyheath, Kent, have, as from 1st April, 1948, taken into partnership Mr. Bernard Sidney Mears and Mr. John Harris Measures, LL.B., who have both been associated with the firm for some time past. The practice will be carried on under the same firm name at the above addresses.

Mr. A. L. Underwood and Mr. R. M. H. Noble have pleasure in announcing that they have taken into partnership Mr. T. Glyn Powell and Mr. J. S. P. Lake as from 18th March, 1948. Mr. Powell hitherto has been a partner in the firm of Philip Conway, Thomas & Co., and is Mr. Underwood's brother-in-law. Mr. Lake was articled to Messrs. Underwood & Co. in 1936 and has been associated with them (except for war service) ever since. The name of the firm remains unchanged.

Honours and Appointments

Mr. R. A. DAVIES has been appointed Deputy Coroner of Manchester. He was admitted in 1934.

Mr. ERIC NEVE, K.C., and the Hon. E. E. S. MONTAGU, K.C., have been elected Masters of the Bench of the Honourable Society of the Middle Temple.

On the retirement of Judge Topham, K.C., from his office as County Court Judge, the Lord Chancellor has appointed Judge ALUN PUGH to be judge of Circuit No. 40 (Bow), and Judge TYLOR, K.C., to be judge of Circuit No. 51 (Hampshire).

Mr. P. J. ROE, S.C., has been appointed a Judge of the Circuit Court in Eire, in place of Judge Sealy, who has retired. Mr. Roe practised as a solicitor in Dundalk for about ten years prior to 1925, when he was called to the Bar. He took silk in 1935.

The Lord Chancellor has appointed Mr. John Basil Blagden, formerly a judge of the High Court in Burma, to be a judge of county courts from 13th April. He is to be judge of Circuit 37 (West London, etc.) jointly with Judge Sir Gerald Hargreaves, and is to sit as additional judge at Bow.

Mr. O. B. WALLIS, the Official Receiver for the Hereford Bankruptcy District, retired on 31st March and is succeeded by Mr. R. K. CLARK, of Somerset House, 37 Temple Street, Birmingham 2, the Official Receiver for the Birmingham Bankruptcy District. Mr. Clark is conducting the busness of both districts from his office at Birmingham (tel. Midland 6216).

Mr. JOHN STANLEY SNOWBALL, the Official Receiver for the York and Scarborough Bankruptcy Districts, retired on 31st March on his appointment as a County Court Registrar. He is succeeded by Mr. G. P. MORRIS, of 29 East Parade, Leeds, the Official Receiver for the Leeds District, who is conducting the business of both districts from his office at Leeds (tel. Leeds 27221). Mr. W. MENNELL, Mr. Snowball's Assistant Official Receiver, joins Mr. Morris's staff.

VISCOUNT BRUCE, having filled the office of President of the Society of Comparative Legislation for ten years, has been succeeded by LORD MACMILLAN, whose place as chairman has been taken by LORD DU PARCQ. The office of the Society has been removed to the Royal Empire Society, Northumberland Avenue, W.C.2, which will be the future address for all communications to the Hon. Secretary or the editors of the Society's publications.

The Lord Chancellor has made the following appointments of County Court Registrars as from 1st April: Mr. NEVILLE GRANGER HERFORD ATKINSON to be Registrar of the Salford and Oldham County Courts; Mr. BERTRAM ST. JOHN PENDRILL CHARLES to be Registrar of the Swansea County Court and District Registrar in the District Registry of the High Court of Justice in Swansea; Mr. WERNER RALPH DAVIES, Registrar of the Altrincham County Court, to be in addition Registrar of Manchester County Court; Mr. ARNOLD DESQUESNES, Registrar of the Coventry, Banbury and Chipping Norton County Courts and District Registrar in the District Registry of the High Court of Justice in Coventry, to be in addition Registrar of the Warwick, Stratford-on-Avon and Shipston-on-Stour County Courts; Mr. HORACE HARFORD FOSTER, Registrar of the Worcester, Evesham, Great Malvern, Bromyard and Bromsgrove County Courts and District Registrar in the District Registry of the High Court of Justice in Worcester, to be in addition Registrar of the Ledbury County Court; Mr. FRANK GLANVIL GLANFIELD and Mr. CECIL HAMMOND COX, Joint Registrars of the Birmingham County Court and Joint District Registrars in the District Registry of the High Court of Justice in Birmingham, to be in addition Registrars of the Alcester and Redditch County Courts; Mr. ALFRED VIOTTI RHODES, M.C., Registrar of Kingston upon Hull, Beverley and Goole County Courts and District Registrar in the District Registry of the High Court of Justice in Kingston upon Hull, to be in addition Registrar of the Great Driffield County Court; and Mr. JOHN STANLEY SNOWBALL, M.C., to be Registrar of the Scarborough, Bridlington and Whitby County Courts and District Registrar in the District Registry of the High Court of Justice in Scarborough.

Notes

The Recorder of Stamford has fixed the next Quarter Sessions for the Borough of Stamford to be held on Wednesday, 28th April, 1948.

The Union Society of London, which meets in the Barristers' Refreshment Room, Lincoln's Inn, at 8.15 p.m., announces the following subjects for debate in April: Wednesday, 14th April, "That this House approves the Budget." Wednesday, 21st April, "That this House considers that the Western Powers should define the limit beyond which Communist infiltration will be resisted by force." Wednesday, 28th April, "That this House considers that the use of the atom bomb in any future international conflict would be unjustified."

UNITED LAW SOCIETY

At a meeting of the United Law Society held in the Barristers' Refreshment Room, Lincoln's Inn, on Monday, 15th March, 1948 (Mr. F. R. McQuown in the Chair), the motion "That the law of insanity as affecting criminal responsibility is unjust and should be amended" was lost by ten votes to three, the attendance being seventeen.

OBITUARY

MR. R. HALL

Mr. Richard Hall, solicitor, of Messrs. Frederic Hall & Co., of Folkestone, died recently, aged thirty-eight. He was admitted in 1932.

MR. O. S. HOPKINS

Mr. Oliver Scatcherd Hopkins, solicitor, of Messrs. Scatcherd Hopkins & Brighouse, of Leeds, died recently. He was admitted in 1920.

COURT PAPERS

SUPREME COURT OF JUDICATURE

EASTER SITTINGS, 1948

HIGH COURT OF JUSTICE—CHANCERY DIVISION

GROUP A—Mr. Justice VAISEY

Mondays—Chambers Summonses (Group A).
Tuesdays—Motions, Short Causes, Petitions, Procedure Summonses, Further Considerations and Adjourned Summonses.
Wednesdays—Adjourned Summonses.
Thursdays—Adjourned Summonses.
Fridays—Motions and Adjourned Summonses.

Mr. Justice ROXBURGH

Mondays—Companies Business.
Such business as may from time to time be notified.

Mr. Justice WYNN PARRY

Mr. Justice WYNN PARRY will sit for the disposal of the Witness List.

GROUP B.—Mr. Justice ROMER

Mondays—Chambers Summonses (Group B).
Tuesdays—Motions, Short Causes, Petitions, Procedure Summonses, Further Considerations and Adjourned Summonses.
Wednesdays—Adjourned Summonses.
Thursdays—Adjourned Summonses.
Fridays—Motions and Adjourned Summonses.
Lancashire Business will be taken on Thursdays, 8th and 22nd April and 6th May.

Mr. Justice JENKINS

Mondays—Bankruptcy Business.
Bankruptcy Motions and Bankruptcy Judgment Summonses will be heard on Mondays, 12th and 26th April.
A Divisional Court in Bankruptcy will sit on Mondays, 19th April and 3rd May.
Such business as may from time to time be notified.

Mr. Justice HARMAN

Mr. Justice HARMAN will sit for the disposal of the Witness List.

EASTER SITTINGS, 1948

COURT OF APPEAL AND HIGH COURT OF JUSTICE
CHANCERY DIVISION

ROTA OF REGISTRARS IN ATTENDANCE ON GROUP A

Date			Emergency Rota	Appeal Court I	Mr. Justice Vaisey *Non-Witness*	Mr. Justice Roxburgh *Business as listed*
Mon.,	Apl.	12	Mr. Blaker	Mr. Hay	Mr. Reader	Mr. Farr
Tues.,	,,	13	Andrews	Farr	Hay	Blaker
Wed.,	,,	14	Jones	Blaker	Farr	Andrews
Thur.,	,,	15	Reader	Andrews	Blaker	Jones
Fri.,	,,	16	Hay	Jones	Andrews	Reader
Sat.,	,,	17	Farr	Reader	Jones	Hay

Date			Group A: Mr. Justice Wynn Parry *Witness*	Group A: Mr. Justice Romer *Non-Witness*	Group B: Mr. Justice Jenkins *Business as listed*	Group B: Mr. Justice Harman *Witness*
Mon.,	Apl.	12	Mr. Hay	Mr. Andrews	Mr. Jones	Mr. Blaker
Tues.,	,,	13	Farr	Jones	Reader	Andrews
Wed.,	,,	14	Blaker	Reader	Hay	Jones
Thur.,	,,	15	Andrews	Hay	Farr	Reader
Fri.,	,,	16	Jones	Farr	Blaker	Hay
Sat.	,,	17	Reader	Blaker	Andrews	Farr

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